

**In the United States Bankruptcy Court
for the
Southern District of Georgia
Savannah Division**

FILED
at 4 00 PM
Date 1/18/06 cc

In the matter of:)
)
E & E DEVELOPMENT)
a/k/a Mark Anthony)
)
Debtor)

United States Bankruptcy Court
Savannah, Georgia

Chapter 11 Case

Number 05-41640

**REPORT AND RECOMMENDATION
TO THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA ON DEBTOR'S MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

The above Motion was filed with the Court and having reviewed the attached Affidavit and applicable authority, I enter this recommendation that the application be denied. Pursuant to the United States District Court's decision in In re del Rio, 2001 WL 34094074, *1 n.3 (S.D. Ga. 2001), this Court makes *in forma pauperis* recommendations to the District Court rather than rulings. This recommendation is therefore transmitted to the District Court for further action.

To proceed *in forma pauperis*, a party must satisfy both the financial and legal eligibility requirements of 28 U.S.C. § 1915. This Court has reviewed the Debtor's Affidavit, which reveals \$1,500.00 in monthly income during the past twelve months, three pieces of real estate valued at a total of over \$1 million, and two motor vehicles valued at a combined total of \$30,000.00. Although his average monthly expenses exceed his average monthly

income, there has not been a showing of indigency sufficient to satisfy 28 U.S.C. § 1915(a)(1) to support a grant of the motion, in light of the substantial value assigned to these assets.

The Notice of Appeal further fails to meet the good faith standard required under 28 U.S.C. § 1915(a)(3). The October 27, 2005 Order dismissing Debtor's case from which the appeal has been taken revealed a pattern of activity supporting the dismissal. These activities included the Debtor's filing of this bankruptcy case while his appeal of the dismissal with prejudice of his bankruptcy case in the Northern District of Georgia was pending, his failure to timely file his Schedules and Statement of Financial Affairs, and his failure to attend both a continued 341 meeting and the hearing on the Motion to Dismiss.

A review of the Notice of Appeal, to the extent it is comprehensible, reveals no legal or factual basis on which error in the dismissal of the case can be supported. For example, the Debtor alleges that this Court has no jurisdiction over his bankruptcy case due to the Court's "granting of political favors" and refusal to "do its inherited duty to prosecute all violators of the Bankruptcy Code" Furthermore, the Debtor claims that the Court is "attempting to sheild [sic] several governmental officers from prosecution in an attempt to enact state laws in a manner that is violative of the Federal Constitution." How these outrageous, baseless assertions have any bearing on the validity of an order dismissing the case when the Debtor invoked this Court's jurisdiction by filing this case and then failed to fulfill his duties under the Code and appear in court is not apparent. Rather, the Debtor's

conduct evidences a bad faith manipulation of the legal process as a *pro se* debtor. *See also* 28 U.S.C. § 1915(e)(2) (stating that the court shall dismiss a case if the action or appeal is found to be frivolous, malicious, or fails to state a claim on which relief may be granted).

Accordingly, the Debtor has failed to establish indigency or satisfy the good faith standard, both necessary requirements for granting a motion to appeal *in forma pauperis*. For the foregoing reasons, the undersigned recommends that the United States District Court deny the Debtor's application or motion for permission to appeal *in forma pauperis*.



Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 18th day of January, 2006.

FILED

Affidavit accompanying Motion for
Permission to Appeal In Forma Pauperis

2005 OCT 12 PM 1:00
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

United States District Court for the SOUTHERN of GEORGIA

We the People, All Rights Restored
and Reserved, Mark Anthony,
Never Waived, Plaintiff

D.C. Case No. _____

BK Court

No. _____

05-41640-LWD

V.
THE UNITED STATES BANKRUPTCY COURT
AND
CHIEF CLERK LAMAR W. DAVIS, JR.,
Defendant(s)

Affidavit in Support of Motion

Instructions

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury that my answers on this form are true and correct. (28 U.S.C. § 1746, 18 U.S.C. § 1621)

Complete all questions on this application and then sign it. Do not leave any blanks. If the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate piece of paper identified with your name, your case's docket number, and the question number.

Signed: Mark Anthony

Date: 10/05/05

My issues on Appeal are:

Plaintiff stands upon the pleadings as stated and
claimed as enumerated within his Notice of Appeal.

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1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

INCOME SOURCE	AVERAGE MONTHLY AMOUNT DURING THE PAST 12 MONTHS	AMOUNT EXPECTED NEXT MONTH
	You	You
Employment	\$ <u>0</u>	\$ <u>0</u>
Self-Employment	\$ <u>1,500.00</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>
Interest and Dividends	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>
Public Assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>
Other (specify): <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Total monthly income	\$ <u>1,500.00</u>	\$ <u>0</u>

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
none	—	—	—
—	—	—	—
—	—	—	—

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
not applicable	—	—	—
—	—	—	—
—	—	—	—

4. How much cash do you and your spouse have? \$ _____

Below, state any money you or spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
Farmers & Merchant	Checking	\$ 0 Closed	\$ 0
—	—	\$ 0	\$ 0
—	—	\$ 0	\$ 0

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement for each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	(Value)	Other real estate	(Value)	Motor Vehicle # 1	(Value)
422 Fairville Rd	525,000	214-216 W. 38 th St.	250,000	Make & year: 1993	12,000
		572 John Westley Dobbs	509,000	F-350	
				Model: 1999	18,000
				F-250	
				Registration # : —	

Motor Vehicle # 2	(Value)	Other assets	(Value)	Other assets	(Value)
Make & year: n/a		n/a	—	n/a	—
Model: —		n/a	—	n/a	—
		n/a	—	n/a	—
Registration # : —					

6. State every person, business or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
GREATER PUTOMAC	2.5 Million	n/a
CHRISTOPHER MANOR	2.5 Million	n/a
COUNTRY WIDE HOME LOAN	2.5 Million	n/a
CHASE MANHATTAN		

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or Home Mortgage (Include lot rented for mobile home)	\$ <u>3,970.00</u>	\$ <u>0</u>
Are real estate taxes included?	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
Is property insurance included?	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>900.00</u>	\$ <u>0</u>
Home maintenance (repairs and upkeep)	\$ <u>700.00</u>	\$ <u>0</u>
Food	\$ <u>400.00</u>	\$ <u>0</u>
Clothing	\$ <u>300.00</u>	\$ <u>0</u>
Laundry and dry-cleaning	\$ <u>75.00</u>	\$ <u>0</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>0</u>
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>0</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>45.00</u>	\$ <u>0</u>
Insurance (not deducted from wages or included in mortgage payments)	\$ <u>100.00</u>	\$ <u>0</u>
Homeowners or renters	\$ <u>300.00</u>	\$ <u>0</u>
Life	\$ <u>0</u>	\$ <u>0</u>
Health	\$ <u>0</u>	\$ <u>0</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Other: <u>property taxes</u>	\$ <u>583.33</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in mortgage payments)(specify): <u>n/a</u>	\$ <u>0</u>	\$ <u>0</u>

	You	Your Spouse
Installment payments	\$ <u>0</u>	\$ <u>0</u>
Credit Card (name): <u>VISA</u>	\$ <u>0</u>	\$ <u>0</u>
Department Store (name): <u>HOME DEPOT</u>	\$ <u>0</u>	\$ <u>0</u>
Other: <u>AMERICAN EXPRESS</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony, maintenance and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operation of business or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>0</u>
Other (specify): <u>n/a</u>	\$ <u>0</u>	\$ <u>0</u>
Total monthly expenses:	\$ <u>7,413.33</u>	\$ <u>0</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? When the suits [civil] are settled for Wrongful levy & Seizure, my net worth will be restored.
☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid No Or will you be paying NO an attorney any money for services in connection with this case, including the completion of this form?

☐ Yes ☐ No If yes, how much? \$ -0-

If yes state the attorney's name, address and telephone number:

None
—
—
—

11. Have you paid No Or will you be paying No anyone other than attorney (such as a paralegal or typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No If yes, how much? \$ -0-

If yes state the person's name, address and telephone number:

None
—
—

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal. Said Plaintiff is currently Bankrupt and is incompetent to tender any payment for the demanded fees associated to prosecute these cases within these court to seek Justice & Redemption; for there is No real lawful money in circulation today Pursuant to HJR 192 of June 5th 1933 and Public Policy 73-10.

13. State the address of your legal ^{location} residence.
Non-Domestic Non-Resident

do. P.O. BOX 2107
Decatur, Georgia state Near [30031-9999]

Your daytime telephone number: 404-599-1777

Your age: 42 Your years of Schooling: XXX-XX-5994

Proof that Informa Pauperis has already
been granted to Petitioner in similar cases
within this court attached hereto as

EXHIBIT "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARK ANTHONY,

Appellant,

v.

1:05-cv-1488-WSD


OFFICE OF THE UNITED
STATES TRUSTEE,

Apellee.

ORDER

Before the Court is Mr. Anthony's motion to proceed on appeal *in forma pauperis* [4]. After consideration of Plaintiff's affidavit of indigency, the Court GRANTS the motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a).

SO ORDERED, this 21st day of September, 2005.


WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE

CERTIFICATE & AFFIDAVIT OF SERVICE

"We the People, All Rights Restored and Reserved, **Mark Anthony**, and Never Waived," Holder in Due Course, Secured Party/Creditor, Exempt from Levy; without recourse, Propria Persona Sui Juris for ANTHONY, MARK, AND E & E DEVELOPMENT, TRADENAMES, any and all derivatives thereof, hereby state that each Respondent and the BANKRUPTCY COURT CLERK'S OFFICE, was served a copy of THIS NOTICE OF APPEAL, DESIGNATION OF RECORDS, STATEMENTS AND ISSUES ON APPEAL, AND THE INFORMA PAUPERIS TO THE DISTRICT COURT TO PROCEED ON APPEAL: by U.S. Postal mail, on or before October 13th, 2005, by certified return receipt mailing went out to every party interested party of record:

cc: THE UNITED STATES BANKRUPTCY COURT
OFFICE OF THE CLERK DEPARTMENT
SOUTHERN DISTRICT
125 BULL STREET RM. 213
SAVANNAH, GA. 31401
ATTN: JUDGE LAMAR W. DAVIS JR.,

THE DEPARTMENT OF JUSTICE OFFICE OF THE
TRUSTEE(S) OFFICE OF THE U.S. TRUSTEE(S)
222 WEST OGLETHORPE AVENUE, STE. 302
SAVANNAH, GA. 31401
ATTN: B. AMON JAMES, ESQUIRE, BANKRUPTCY
ATTORNEY

THE DEKALB COUNTY SHERIFF DEPARTMENT
4425 MEMORIAL DRIVE
DECATUR, GA. 30032

Respectfully Submitted,

"We the People, All Rights Restored and Reserved,
Never Waived,"

Mark Anthony, U.C.C. 1-207 and 1-303, WITHOUT PREJUDICE, Secured Party/Creditor, and Holder in Due Course, U.C.C. 3-302(a)(2)(i), Administrator and Authorized Representative, Exempt from Levy; without Recourse, Propria Persona Sui Juris for the "alleged Debtor(s): E & E DEVELOPMENT AND MARK ANTHONY, Legal and Fictional Corporational Entities: 1 TAC Chapt. 4 Subchapter 79 sect. 79.31: